

In the Matter of)	
)	
Application by SBC Communications Inc.,)	
Southwestern Bell Telephone Company, and)	
Southwestern Bell Communications Services,)	CC Docket No. 01-88
Inc. d/b/a Southwestern Bell Long Distance for)	
Provision of In-Region, InterLATA Services in)	
Missouri)	

STATE OF TEXAS)
)
COUNTY OF DALLAS)

SUBJECT	PARAGRAPH
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RESPONSE TO CLEC COMMENTS	4
CONCLUSION	20
APRIL 24, 2001 <i>KANSAS CITY STAR</i> ARTICLE	ATTACHMENT A

**Redacted
For Public Inspection**

I, David R. Tebeau, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

1. My name is David R. Tebeau. My title is Area Manager – Competitive Analysis for Southwestern Bell Telephone Company (“SWBT”). My business address is 311 S. Akard, Room 1840.04, Dallas, Texas. I am the same David R. Tebeau that filed an affidavit in this proceeding on April 4, 2001, updating the Commission on the status of local competition in Missouri.
2. The purpose of this affidavit is to respond to the comments of Sprint, El Paso/PacWest, and AT&T regarding the existence of facilities-based competition in Missouri. As set out in greater detail below, the comments made by these carriers do nothing to change or alter the facts contained in my initial affidavit. Those facts establish beyond doubt that:
 - the local market in Missouri is open to competition;
 - CLECs are actively competing with SWBT for both business and residential customers;
 - CLECs are serving business and residential subscribers entirely over their own facilities, over UNEs leased from SWBT, and via resale; and
 - Competition is growing in all segments of the local market.

STATUS OF COMPETITION

3. As of the end of March 2001, SWBT has entered into over 100 approved Interconnection and Resale agreements with CLECs in Missouri. Pursuant to those agreements, at least 19 CLECs are providing facilities-based service to customers in Missouri through use of their own network facilities, through unbundled network elements (“UNEs”) leased from SWBT, or through a combination of these two approaches. CLECs in Missouri serve an estimated 430,000 access lines and, at a minimum, 264,000 access lines, using E911, UNE-P and resale lines. Indeed, no

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commenter denies that there are CLECs providing facilities-based service to both business and residential subscribers in Missouri.

RESPONSE TO CLEC COMMENTS

4. While SWBT's portrayal of widespread competition in the state of Missouri may appear "surreal" to Sprint,¹ SWBT's portrayal is based on facts. Those facts – as set out in my initial affidavit in this proceeding – establish that SWBT's markets are open, that facilities-based competition exists for both business and residential customers, and that competition is increasing across the board. In March 2001 alone, the number of interconnection trunks provided by SWBT to facilities-based CLECs totaled 109,596, an increase of 5.7% over the February numbers reported in my original affidavit. E911 listings submitted by facilities-based CLECs totaled 124,700, an increase of 4.4% over February, and the number of UNE-P lines provided by facilities-based CLECs totaled 49,623, an increase of 4.7% over February. This growth is significant, and should only be expected to continue with approval of SBC's Missouri 271 application.
5. El Paso Networks/PacWest claims that SWBT calculates the current level of competition in Missouri "at around 6.4%," while its own estimate of competition is closer to 1%.² In fact, Table 2 of my initial affidavit estimates CLEC market coverage in Missouri at the end of February at between 9.2% and 14.2%. In August 2000, the Missouri PSC staff conducted a survey of CLECs in Missouri which concluded that CLECs serve approximately 12% of the access lines in

¹ Sprint Corp. Comments at 2.

² EL Paso Networks/PacWest Comments at 28.

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Missouri.³ Given these facts, El Paso/PacWest's 1% number (the calculation for which is not provided or supported in its filing) can only be regarded as way off the mark.

6. AT&T also disputes SWBT's estimate of the total amount of competition in Missouri, particularly residential access lines. However, AT&T's analysis – purportedly demonstrating that CLECs only have “1.31% percent of the total residential access lines in Missouri and that only .07% of all residential lines in Missouri are served through UNE's” – is fundamentally flawed.⁴
7. AT&T attempts to minimize facilities-based residential CLEC competition in Missouri by separating CLEC facilities-based lines (as reflected in SWBT's E911 database) from UNE-P lines when comparing CLEC lines to SWBT access lines.⁵ AT&T ignores the fact that both E-911 lines and UNE-P lines represent service provided by facilities-based carriers in Missouri. Not surprisingly, improperly separating these numbers in analyzing market coverage significantly understates the extent of competition by facilities-based CLECs. AT&T also understates the extent of competition for residential lines by neglecting to include resold residential lines in its calculation.⁶

³ See Initial Affidavit of David R. Tebeau ¶ 22, attached to *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Missouri*, CC Docket No. 01-88 (FCC filed Apr. 4, 2001) (“Initial Tebeau Affidavit”).

⁴ See AT&T Comments at 1 and 56-57.

⁵ See AT&T Comments at 56, Table 1 (using E911 data under the heading “CLEC Lines”), and 57, Table 2 (using UNE-P numbers under the heading “UNE Lines”).

⁶ See AT&T Comments at 58; see also *Kansas-Oklahoma 271 Order* ¶ 43, fn. 101, where the FCC specifically noted that compliance with Track A requirements may be demonstrated through the existence of resold residential service. Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, FCC 01-29, CC Docket No. 00-217, ¶ 43, n. 101 (rel. Jan. 22, 2001) (“*Kansas/Oklahoma Order*”).

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8. Table 1 below demonstrates that considering all modes of competition, and using the very conservative E911 numbers to estimate access lines served by switch-based CLECs, at least 3.6% of the residential access line market is currently being served by CLECs.

**Table 1
Missouri CLEC Residential Access Line Analysis– March 2001**

	E911 Residential Lines	UNI-P Residential Lines	Resold Residential Lines	TOTAL Residential Lines	% Residential Access Lines *
	25,902	1,228	36,225	63,355	3.6%

* Based on SWBT's 1,748,982 residential access lines at end of March 2001

9. For numerous reasons discussed in my original affidavit, E911 listings represent a very conservative estimate and are likely to significantly understate the actual number of facilities-based lines served by CLECs in Missouri.⁷ Using an interconnection trunk to access line ratio of 2.75:1, the estimated number of CLEC facilities-based access lines totals 332,600, and the estimated percentage of CLEC Residential Access Lines increases to 5.4%.
10. Next, AT&T takes the completely unsupported position that its decision to sell its cable facilities somehow compromises the entire future of residential competition in Missouri. AT&T argues that because the Missouri PSC survey in August 2000 found that AT&T was the only facilities-based provider of service to residential subscribers, and because AT&T sold the cable facilities it

⁷ For example, E911 listings only represent those customer lines from which outbound calls can be made. As a result, business customers such as call centers, reservationists, telemarketing centers, and Internet providers will have few of their access lines represented in the E911 database. In addition, when a number is ported from SBC to the new serving CLEC, the number would continue to appear as SBC's line in the E911 database. Finally, CLECs themselves may make errors in entering E911 listings, and SBC does not 'police' those entries to ensure that they are accurate and complete. For all these reasons, the listings in the E911 database provide a very conservative estimate for the number of business and residential listings served by facilities-based CLECs.

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For Public Inspection**

was using in Missouri to provide that service in February, “the prospect of *any* facilities-based competition for residential service in Missouri is, at best, questionable.”⁸

11. In fact, AT&T’s unwillingness to compete for residential customers in Missouri is completely irrelevant to the question of whether the local market is open to such competition.⁹ As set out in Table 2 below, there are twelve facilities-based providers currently providing residential service to subscribers in Missouri. The local market is open to competition by large carriers such as AT&T, and to smaller carriers as well.

*****TABLE 2***
TRACK A COMPETITORS IN MISSOURI
March 2001**

TRACK A COMPETITORS	FACILITIES-BASED (F911 LISTINGS)		FACILITIES-BASED (UNE-Ps)		TRACK A CLECs RESOLD LINES	
	BUS.	RES.	BUS.	RES.	BUS.	RES.

⁸ AT&T Comments at 56-57, 62.

⁹ Contact with a Charter Communications representative indicates that Charter will allow AT&T to continue providing local service using its facilities until Charter develops its own local service offering.

12. The fact that carriers' business plans may change, and that the local market remains open to accommodate that change, is demonstrated by Birch's recent decision to reenter the residential market in Missouri, Kansas and Oklahoma (a striking contrast to AT&T's decision to leave that market). According to an article appearing in the *Kansas City Star* on April 24, 2001, Birch intends to renew its competition with SWBT for residential service in Missouri, by "using pieces of Bell's network, but the service will be packaged differently than Bell's.... [T]he service will be priced an average of 5 percent to 10 percent below Bell's."¹⁰ Similarly, AT&T could rethink its decision and re-enter the market for local residential service in Missouri tomorrow. The evidence unequivocally establishes that SWBT's markets are open to accommodate AT&T when it decides that providing residential service to Missouri subscribers suits its business interests.
13. AT&T further questions the prospects of local competition in Missouri by pointing to the experience in Texas following SWBT's entry into the long distance market there. But far from casting doubt on the prospects for competition in Missouri, the Texas experience confirms beyond dispute that local competition can be expected to increase significantly in Missouri once the long distance incumbents finally have an incentive to enter the local market.
14. From July 2000, when SWBT's Texas 271 Application was approved, through March 2001, there has been a growth of 894,000 facilities-based lines in Texas, an increase of 48%, as Table 3 below illustrates. Total competitive access lines (including resale) have increased by more than 38% over this same period of time. UNE Loop/Port combinations alone have increased by over 108% since SWBT entered into the long distance market in Texas.

¹⁰ S. King, *Birch to Enter Residential Market Again*, *Kansas City Star* at D6 (Apr. 24, 2001) (see Attachment A).

**Table 3
Growth in Competitive Indicators since Texas 271 Application Approval
July 2000 to March 2001**

CLEC Facilities-Based Access Lines	1,838,004 / 2,732,000 (% growth = 48%)
Total CLEC Access Lines (including resale)	2,224,508 / 3,063,300 (% growth = 38%)
Interconnection Trunks	496,361 / 591,800 (% growth = 19%)
Operational Physical Collocations	2,044 / 2,373 (% growth = 16%)
Unbundled Stand-Alone Loops	86,402 / 117,650 (% growth = 36%)
UNE Loop/Port Combinations	472,249 / 983,400 (% growth = 108%)
E911 Listings	398,957 / 508,600 (% growth = 28%)

15. The tremendous growth in competition in Texas is illustrated even more clearly by Table 4, which encompasses the time period beginning with the filing of SWBT's Texas 271 Application with the FCC in January 2000, through March 2001.

**Table 4
Growth in Competitive Indicators for Texas 271 Application
January 2000 to March 2001**

Lines Lost to Facilities Based CLECs	1,243,000 / 2,732,000 (% growth = 119%)
Total Lines Lost (includes resale)	1,590,000 / 3,063,300 (% growth = 92%)
Interconnection Trunks	398,000 / 591,800 (% growth = 48%)
Operational Physical Collocations	1,012 / 2,373 (% growth = 134%)
Unbundled Stand-Alone Loops	49,000 / 117,650 (% growth = 140%)
UNE Loop/Port Combinations	148,000 / 983,400 (% growth = 564%)
E911 Listings	368,327 / 508,600 (% growth = 38%)

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16. AT&T's own numbers confirm SWBT's point about expected growth in local service levels upon receiving long distance approval. Table 3 of AT&T's comments shows a growth in residential facilities-based lines of more than 691% in New York and 108% in Texas in the time period beginning with the filing of 271 applications for those states until six months after approval.¹¹ Local competition is growing in both Texas and Missouri, and that growth – in both business and residential markets – should only be expected to continue.
17. AT&T also complains that the long distance market has not fared well since SWBT's approval in Kansas and Oklahoma. That too is grossly misleading. AT&T itself has lowered long distance prices and increased bundling options since SWBT's entry into long distance in those states. Moreover, AT&T most recently responded to SBC's entry into the Kansas and Oklahoma long distance markets by offering 30 free minutes of long distance to selected residential customers. This offer was announced just days before SBC began offering long distance in these two states.
18. While SWBT's entry into Kansas and Oklahoma long distance may be troubling to AT&T – which is finally responding to real competition – it clearly has been a boon to consumers. Missouri consumers too can expect the same benefits from competition in both the local and long distance marketplaces.
19. AT&T attached the direct testimony of Steven E. Turner filed in TO-99-227 from August 28, 2000 which addressed many competitive factors. SWBT has already addressed Mr. Turner's testimony in the record, filing the reply affidavit of David R. Tebeau in Case No. TO-99-227 on September 20, 2000.¹²

¹¹ See AT&T Comments at 58.

¹² The public version of this affidavit and attachments were included with SWBT's initial application in Appendix C, Tab 57; the associated proprietary materials were included as part of Proprietary Materials, Tab C-7.

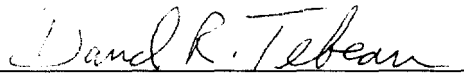
CONCLUSION

20. SWBT has presented clear evidence that CLECs are providing service exclusively or predominately over their own facilities to “one or more unaffiliated competing providers of telephone exchange service...to residential and business subscribers” in Missouri. As recognized by the Missouri Commission in its comments in this proceeding, SWBT has fully satisfied the “Track A requirement” of the Telecommunications Act.¹³ The Missouri Commission stated on page 91 of its March 15, 2001, Order that “the Commission concludes that facilities-based local competition exists in Missouri for both business and residential customers.”¹⁴

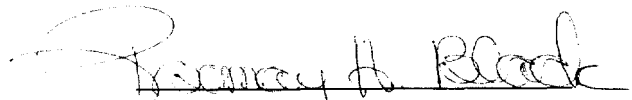
¹³ Order Regarding Recommendation on 271 Application Pursuant to the Telecommunications Act of 1996 and Approving the Missouri Interconnection Agreement (M2A) at 19-21, *Application of Southwestern Bell Telephone Company To Provide Notice of Intent to File an Application for Authorization To Provide In-region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996*, Case No. TO-99-227 (Mar. 15, 2001) (App.C, Tab 98).

¹⁴ *Id.* at 91.

I hereby swear and affirm that the information contained in the attached affidavit is true and correct to the best of my knowledge and belief.


David R. Tebeau

Subscribed and sworn to before me on this 9th day of May 2001.


Notary Public

Tebeau Reply Affidavit – Attachment A

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THE KANSAS CITY STAR

April 24, 2001, Tuesday METROPOLITAN EDITION
Correction Appended

SECTION: TUESDAY BUSINESS;

Pg. D6

LENGTH: 415 words

HEADLINE: Birch to enter residential market again

BYLINE: SUZANNE KING; The Kansas City Star

BODY:

Birch Telecom Inc. will announce plans today to again offer telephone service to residential customers in Missouri and Kansas and launch the service in Oklahoma.

Previously the Kansas City-based telephone carrier had focused its "fire Southwestern Bell" sales campaign primarily on small-business customers.

Birch provided residential service in limited areas until early last year, but the service was provided on a purely resale basis, meaning that Birch was buying service from Bell at reduced rates and then selling it - as is - to its own customers.

Jeff Shackelford, senior vice president of sales and customer operations, said the profit margins in that business were so slim that sometimes, after Birch paid to convert the customer and paid other costs such as billing, the company actually lost money.

"For us, it was strictly a business decision" to stop taking new residential orders last year, Shackelford said. "There's no margin in total service retail at all."

The residential service that Birch will announce today will provide service using pieces of Bell's network, but the service will be packaged differently than Bell's. Shackelford said the service will be priced an average of 5 percent to 10 percent below Bell's. Prices vary by market.

Most competitive local carriers such as Birch have gone after business customers, who tend to spend more on their monthly phone bill.

Shackelford said the company will expand the residential offering to Texas later this year and offer it in other states next year.

"The brand has been built for us in all of the cities where we already operate," he said. "We're going to play off our brand."

Birch has had a difficult year financially. The company was forced to delay an initial public stock offering early last year, and it was forced to lay off 446 employees - nearly 24 percent of its work force - in two rounds of job cuts in November and February.

Birch recently received \$75 million from Kohlberg Kravis Roberts & Co., a New York buyout firm, and the firm could put up to \$30 million more into Birch at the end of July.

Chief Executive and President David E. Scott has said those investments, which make Kohlberg Kravis the majority owner of Birch, will fully finance the company's current business plan.

To reach Suzanne King, technology and telecommunications reporter, call (816) 234-4336 or send e-mail to sking@kcstar.com.

CORRECTION: A story about Birch Telecom Inc. in the April 24 Business section referred to the company's previous business as "total service retail." The reference should have been to "total service resale."

LOAD-DATE: April 29, 2001

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
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Application by SBC Communications Inc.,)
Southwestern Bell Telephone Company, and)
Southwestern Bell Communications Services,) CC Docket No. 01-88
Inc. d/b/a Southwestern Bell Long Distance for)
Provision of In-Region, InterLATA Services in)
Missouri)

REPLY AFFIDAVIT OF BILL E. VANDEBERGHE

STATE OF MISSOURI)
)
COUNTY OF JACKSON)

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I, Bill E. VanDeBerghe, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

1. My name is Bill E. VanDeBerghe. I previously filed an affidavit in this proceeding which provides my relevant experience and qualifications.
2. The purpose of my reply affidavit, filed on behalf of Southwestern Bell Telephone Company's ("SWBT's") network department, is to respond to the comments filed by El Paso

Networks, LLC and PacWest Telecom, Inc. (“El Paso/Pac West”), McLeodUSA, Inc. (“McLeodUSA”) and NuVox, Inc. (“NuVox”) relating to SWBT’s DSL and DS1 loop provisioning for Missouri competitive local exchange carriers (“CLECs”). In addition, I respond to the DS1-related comments made in the May 9, 2001 Evaluation of the United States Department of Justice regarding SWBT’s Missouri section 271 application (“DOJ’s Evaluation”).

DSL Loop Provisioning

3. At page 22 of its comments, El Paso/PacWest states that SWBT has failed to meet parity for PM 58-10 (Percentage of SWBT – Caused Missed Due Dates – DSL – Line Sharing) and takes exception with SWBT’s explanation for its performance. SWBT acknowledges that it has been out of statistical parity for this measure from January 2001 through March 2001.
4. Root cause analysis of these misses identified two process problems related to the inventory and acquisition of miscellaneous equipment (“ME”) that is used in the central office component of SWBT’s provisioning of DSL.
5. The first problem identified was in the process for passing information from the central office equipment engineer to the database manager (“DDM”) responsible for the inventory of ME into the SWITCH database. When miscellaneous equipment is installed in the central office, it is incumbent on the engineer to complete a “SWITCH Input Form” that is sent by email to the DDM. This form contains the ME details that the DDM requires to perform their inventory task. In the due date misses that we investigate, the engineer had failed to complete and forward the form in a timely manner. When the customer DSL order flowed

from SORD to SWITCH, for the acquisition of the ME, it returned an ESOI (error service order input) error to the LSC, indicating that SWITCH could not assign the order.

6. The second problem was in the timeliness of ESOI error resolution. SWITCH returns the ESOI error to a “manual review bucket” for handling by the LSC. The service representative must review the error, document their findings and forward the information, by email, to the network engineering coordinate. Engineering would research the order, identify the inventory conflict and initiate corrective action. When the roadblock was cleared, network engineering would notify the LSC and the service order would be redistributed.
7. SWBT expeditiously and comprehensively addressed both issues. Engineering performed a review to ensure that all ME related projects were current and up to date. Changes were made in the process and handling of the “SWITCH Input Forms” by the engineer, to ensure accurate and on-time delivery of information to the SWITCH database manager. The LSC reviewed and reinforced their processes for handling orders with ME related errors. The LSC and Network Engineering worked jointly on developing process improvements directed at the timeliness of order error resolution. An interdepartmental timeline was created to facilitate a fluid and expeditious process. In addition, a mechanization opportunity is being investigated that would drive these types of errors to the responsible engineer for handling.
8. SWBT is confident that these efforts will bring SWBT’s performance into parity. Preliminary results for April indicate a total of 4 missed appointments on 134 orders, equating to a 2.99% miss rate. This is a significant improvement from January results of a 9.4% miss rate, February results of a 5.8% miss rate, and March results of a 9.1% miss rate. In addition, the average missed appointment rate for the January-March period was 7.8%, based upon 32 misses on 411 orders.

9. When making the comparison of wholesale to retail performance, it is crucial to understand that ASI is wholly responsible for the inventory and acquisition of their ME related equipment, while SWBT is responsible for miscellaneous equipment it provides to CLECs ordering DSL Line Sharing. Consequently, ME related misses for retail would never be reflected as SWBT-caused misses in the retail performance calculation.
10. A manual review of the 32 missed due dates, for the period of January 2001 through March 2001, identified that 23 (71.9%) of the SWBT-caused misses were attributed to ME inventory issues. With the miscellaneous equipment issue removed, the average miss rate for the same period would be 1.9%.
11. When comparing SWBT's performance for ASI as compared to its performance for other CLECs, one must also account for very divergent business strategies. CLECs generally demand shorter intervals than does ASI. Shorter intervals afford limited opportunity for resolving unforeseen roadblocks, making them more challenging to complete on time. As stated earlier, ASI provides its own miscellaneous equipment in "Line Sharing" while SWBT provides most CLECs with miscellaneous equipment in "Line Sharing." ASI's DSL deployment procedures typically limit the distance of the loop it will utilize to 14kft or less, while CLECs often will attempt to provide service utilizing loops beyond 17.5kft. It is technically recognized throughout the industry that longer loops limit speed and throughput on digital services. Additionally, longer loops reduce the signal-to-noise ratio, thus making them more susceptible to transient noise inherent to the outside plant environment. ASI focuses solely on ADSL, while other CLECs sell a variety of products (*e.g.*, IDSL, VDSL, SDSL, etc.), resulting in more complex demands on SWBT's timely provisioning of DSL-capable loops.

12. At page 39 of its comments, McLeodUSA identifies PM 59-08 (Percent Installation Reports within 30 Days of Installation) as a measure for which SWBT has not provided parity performance. The affidavit of William R. Dysart responds to the performance data associated with that particular measurement. However, the factors identified above regarding adverse impacts on the percentage of missed due dates also often have a detrimental effect on the installation quality of the loop provided to the CLEC.
13. It should also be noted that an additional factor limiting SWBT's PM 59-08 performance is the lack of acceptance testing requested by and performed with the CLECs. This lack of cooperative testing on the service order completion directly impacts DSL provisioning quality. Unfortunately, SWBT's Version 1.7 performance measurements do not exclude data for this measurement where the CLEC declines to conduct acceptance testing made available to it by SWBT. To this extent the measure is unlike the measure the Commission reviewed in paragraph 144 of its *Verizon Massachusetts Order*, which reflected that "properly conducted acceptance testing could identify some installation quality problems that could be resolved at the time the completion CLEC and [the ILEC] conduct the acceptance test." *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-29, FCC 01-130, ¶ 144 (rel. Apr. 16, 2001) ("*Verizon Massachusetts Order*"). Accordingly, the order discussed a consensus to revise the I-30 measure to "only" include trouble reports that are submitted within 30 days of installation by competitors that participate in acceptance testing. The lack of such a measure at SWBT inappropriately results in counting as a miss those I-30

reports that could have been eliminated through acceptance testing conducted when the CLEC's service was installed.

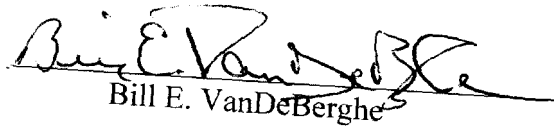
14. SWBT has identified, in another jurisdiction (Arkansas), that DSL UNE loops are completed without acceptance testing performed between the CLEC and SWBT, on over 80% of due date completions. The majority of the trouble, on the associated I-30 reports, would have been present at the time of completion and in my view would have been identified on the due date, had the CLEC opted to perform acceptance testing made available to them by SWBT. It is reasonable, in my view, to assume that a review of DSL UNEs I-30s for Missouri would yield the same conclusion.

DS1 Loop Provisioning

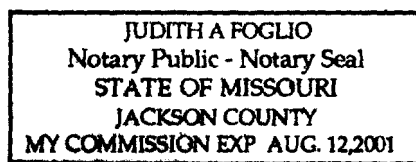
15. At page 23 of El Paso/PacWest's comments, and at page 13 of NuVox's comments, the CLECs discuss SWBT's provisioning of DS1 loops.
16. Despite these CLECs' comments, SWBT has achieved parity for PM 58-06 (% SWBT Missed Due Dates – DS1 Loop with Test Access) from October 2000 through March 2001, illustrating that SWBT has met the fundamental requirement of a competitive marketplace.
17. SWBT recognizes, as is stated in its original filing, a need to improve the overall on-time delivery of DS1 service to both wholesale and retail customers. The root cause of misses was a lack of available facilities. In response, SWBT implemented a series of process improvements, including but not limited to, advancing capital projects to provide additional facilities, escalating orders that were identified as potential misses, and dispatching SWBT field technicians on plant test date ("PTD") before the customers due dates.

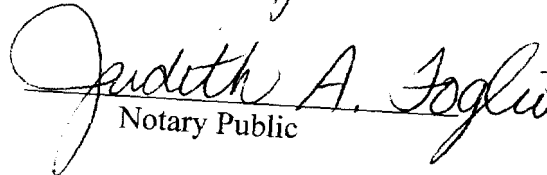
18. The initiative SWBT has taken has resulted in continued and uninterrupted improvement in Missouri for PM 58-06 since November of 2000. The results have shown steady improvement, from a high of 43 % in November to 17.4 % in March. Preliminary results for April are 14.4 %.
19. At page 7, footnote 23, of the DOJ's Evaluation, the DOJ refers to data for PM 62-06 (Average Delay Days for SWBT Missed Due Dates). While the affidavit of William R. Dysart responds to DOJ's statistical analysis in detail, it is important to also point out that, from a network perspective, the data for PM 62-06 data work in tandem with the data for PM 58-06. The increase in average delay days for orders completed in December 2000 through February 2001 is directly related to the clearing of past due date customer service orders that had been previously held for SONET ring completions in the St. Louis area. After those SONET ring jobs and the DS1 held orders were completed, the average delay days decreased, as is evident by March 2001 results reflecting a delay days average of 4.81 for CLECs.
20. This consistent and steady improvement further illustrates SWBT's commitment to improve DS1 on-time delivery for CLECs.
21. This concludes my affidavit.

I hereby swear and affirm that the information contained in the attached affidavit is true and correct to the best of my knowledge and belief.


Bill E. VanDeBerghe

Subscribed and sworn to before me on this 9 day of May 2001.




Notary Public

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Missouri)	

AFFIDAVIT OF LINDA G. YOHE

DISTRICT OF)	
)	
COLUMBIA)	

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PROFESSIONAL EXPERIENCE AND BACKGROUND	1
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I, LINDA G. YOHE, being of lawful age and duly sworn upon my oath, do hereby depose
and state as follows:

1. My name is Linda G. Yohe. I am the Executive Director-Federal Regulatory for SBC
Telecommunications, Inc. and previously filed an affidavit on behalf of SBC

Communications Inc. in this proceeding. The purpose of my reply affidavit is to identify and discuss an order of the Federal Communications Commission (“FCC”) that is pertinent to a portion of the comments of SCC Communications Corp. (“SCC”) filed in this proceeding.

2. SCC asserts that SWBT’s E911 services should be provided through a separate affiliate pursuant to Section 272 of the Telecommunications Act of 1996 (“the Act”). It reasons that this course is dictated by the public interest.¹
3. The FCC addressed the applicability of Section 272 to SWBT’s and other Bell Operating Companies’ E911 services over three years ago. In its E911 Forbearance Order, the FCC confirmed that interLATA E911 services are subject to the separate affiliate requirements of Section 272, but also concluded that “the forbearance criteria in section 10 are met for the Commission to forbear from applying section 272 to the BOCs’ E911 services.... and we permit petitioners to continue to provide those services on an integrated basis.”² The FCC’s grant of forbearance was conditioned upon “each BOC’s making available to unaffiliated entities all listing information, including unlisted and unpublished numbers as well as the numbers of other LECs’ customers, that it uses to provide E911 services.”³ Such information was required to be provided at the same rates, terms, and conditions, if any, charged to the BOCs’

¹ SCC Comments at 5.

² Memorandum Opinion and Order, Bell Operating Companies Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities, 13 FCC Rcd 2627, 2628-29, ¶ 2 (1998) (“E911 Forbearance Order”).

³ Id. at 2646, ¶ 34.

own E911 services.⁴ With respect to this information, the FCC concluded that the statutory forbearance criterion was met provided SWBT makes this information available to unaffiliated entities that wish to provide E911 services.⁵ SBC complies with the condition imposed by the order, and makes those listings available at the same rates, terms and conditions it charges or imposes on its own E911 services.⁶

4. SCC's argument that the public interest dictates interLATA E911 services be provided through a separate affiliate is foreclosed by the E911 Forbearance Order. Section 10(a)(3) of the Act requires that the FCC analyze whether forbearance would be in the public interest. In its order, the FCC undertook such an analysis, and based on several factors, correctly concluded that "forbearance from application of the section 272 requirements to the BOCs' E911 services would be consistent with the public interest."⁷ Moreover, while SCC rests its argument on competitive considerations, the FCC carefully considered such matters, yet concluded that "competitive effects should not form the basis of our public interest determination under section 10(a)."⁸ Accordingly, SCC's public interest argument lacks merit.

⁴ Id.

⁵ Id. at 2643, ¶ 28.

⁶ While SCC claims that "SBC has not satisfied these mandatory prerequisites" it provides no facts in support of its claim. SCC Comments at 6. In fact, SWBT's interoperability agreement with SCC specifically requires that SWBT "provide SCC an initial valid CRIS load of SWBT customer records on a rate center basis. Subsequent daily updates shall be provided at the same intervals and frequency as SWBT currently provides this information to its 9-1-1 Database Management system." See Interoperability Agreement No. 00008318 Between SCC Communications Corp. and Southwestern Bell Telephone Company Regarding 9-1-1 Services in Texas at 4 (Feb. 2, 2000). SWBT is meeting its commitments under this agreement by providing SCC with subscriber information for its own retail customers and for end-users served by CLECs through a resale or UNE-P arrangement.

⁷ E911 Forbearance Order, 13 FCC Rcd at 2650, ¶ 46.

⁸ Id. at 2651-52, ¶ 49.

5. SCC seeks to identify “examples” of why the necessity of this affiliate safeguard should be “apparent,” alleging that it has been refused access to SWBT’s selective routers and that SWBT has failed to offer an “appropriate tariff” in Texas.⁹ However, these examples relate to competitive considerations, and as noted above, the FCC held that such considerations should not form the basis of its public interest analysis. Additionally, none relate to the condition imposed by the FCC in its E911 Forbearance Order, i.e., SWBT’s provision of listing information.¹⁰ Thus, these alleged examples are without relevance. The affidavit of William Deere addresses the factual details relating to these examples.
6. Based upon the foregoing, it is my opinion that, based upon the FCC’s E911 Forbearance Order, the FCC should reject SCC’s claim that the public interest dictates that SWBT’s interLATA E911 services should be offered only by a Section 272 separate affiliate.

⁹ SCC Comments at 6.

¹⁰ Notably, the FCC specifically declined to require that the BOCs make routing information available to unaffiliated entities because it found that “we do not believe such a condition is necessary to ensure that BOC provision of E911 service is just, reasonable, and non-discriminatory, in accordance with section 10(a).” E911 Forbearance Order, 13 FCC Rcd at 2647, ¶ 36.

7. This concludes my affidavit.

I hereby swear and affirm that the information contained in the attached affidavit is true and correct to the best of my knowledge and belief.

Linda G Yohe
Linda G. Yohe

DISTRICT OF
COLUMBIA

Subscribed and sworn before me on this 15th day of May 2001.

My Commission Expires April 30, 2003

~~2002-05-15 day expires commission 4/30/03~~

Anne R. Haddox
Notary Public